

# **EXHIBIT 1**

NEW ENGLAND COMPOUNDING PHARMACY INC. PRODUCTS LIABILITY  
VIDEOTAPED DEPOSITION OF RITU T. BHAMBHANI, M.D. on 02/10/2016

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UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

IN RE: NEW ENGLAND  
COMPOUNDING PHARMACY, INC. MDL No. 2419  
PRODUCTS LIABILITY LITIGATION Master Docket  
1:13-md-02419-RWZ

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VIDEOTAPED DEPOSITION DUCES TECUM  
OF RITU T. BHAMBHANI, M.D.

Wednesday, February 10, 2016

Reported by: Lori J. Goodin, RPR, CLR, CRR,  
Realtime Systems Administrator  
Assignment No. 26236



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<p style="text-align: right;">Page 2</p> <p>1</p> <p>2</p> <p>3</p> <p>4 The deposition of RITU T. BHAMBHANI, M.D.,</p> <p>5 was convened on Wednesday, February 10, 2016,</p> <p>6 commencing at 10:01 a.m., at the offices of</p> <p>7</p> <p>8 PESSIN KATZ LAW</p> <p>9 Suite 400</p> <p>10 901 Dulaney Valley Road</p> <p>11 Towson, Maryland 21204</p> <p>12</p> <p>13 before Lori J. Goodin, Registered Professional</p> <p>14 Reporter, Certified LiveNote Reporter, Certified</p> <p>15 Realtime Reporter, Realtime Systems</p> <p>16 Administrator, and Notary Public in and for the</p> <p>17 State of Maryland.</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 4</p> <p>1 APPEARANCES CONTINUED</p> <p>2</p> <p>3 For Defendant:</p> <p>4 GREGORY KIRBY, ESQUIRE</p> <p>5 CATHERINE W. STEINER, ESQUIRE</p> <p>6 PESSIN KATZ LAW</p> <p>7 Suite 400</p> <p>8 901 Dulaney Valley Road</p> <p>9 Towson, Maryland 21204</p> <p>10 410-938-8800</p> <p>11 gkirby@pklaw.com</p> <p>12 csteiner@pklaw.com</p> <p>13</p> <p>14 ALSO PRESENT:</p> <p>15 Meeko Goodhill, videographer</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 3</p> <p>1 APPEARANCES</p> <p>2</p> <p>3 For Plaintiffs:</p> <p>4 HARRY ROTH, ESQUIRE</p> <p>5 MICHAEL COREN, ESQUIRE</p> <p>6 COHEN PLACITELLA &amp; ROTH, P.C.</p> <p>7 2001 Market Street</p> <p>8 Suite 2900</p> <p>9 Philadelphia, PA 19103</p> <p>10 215-567-3500</p> <p>11 hroth@cprlaw.com</p> <p>12 mcoren@cprlaw.com</p> <p>13</p> <p>14 And Co-counsel:</p> <p>15 PATRICIA KASPUTYS, ESQUIRE</p> <p>16 SHARON L. HOUSTON, ESQUIRE</p> <p>17 LAW OFFICES OF PETER G. ANGELOS</p> <p>18 One Charles Center</p> <p>19 100 North Charles Street</p> <p>20 22nd Floor</p> <p>21 Baltimore, Maryland 21201</p> <p>22 410-649-2000</p> <p>23 pjklaw@lawpga.com</p> <p>24 shouston@lawpga.com</p> <p>25</p>	<p style="text-align: right;">Page 5</p> <p>1 CONTENTS</p> <p>2 EXAMINATION BY PAGE</p> <p>3 Mr. Roth 8</p> <p>4</p> <p>5 EXHIBITS</p> <p>6 NO. DESCRIPTION PAGE</p> <p>7 Exhibit 1051 Answers to PSC's first set of 9</p> <p>8 Interrogatories</p> <p>9 Exhibit 1052 Responses to PSC's request for 9</p> <p>10 Production of documents</p> <p>11 Exhibit 1053 Responses to Steering Committee 9</p> <p>12 Revised subpoena request</p> <p>13 Exhibit 1054 CV of Dr. Ritu Bhambhani 23</p> <p>14 Exhibit 1055 Earlier version of CV of 31</p> <p>15 Dr. Ritu Bhambhani</p> <p>16 Exhibit 1056 Current Policy and Procedure 46</p> <p>17 Manual and organizational chart</p> <p>18 Exhibit 1057 Salesman Andrew Howden's card 118</p> <p>19 Exhibit 1058 Order form used by Box Hill for 118</p> <p>20 NECC, Bates 000011</p> <p>21 Exhibit 1059 NECC prescription order form of 131</p> <p>22 9/21/2012, Bates 13</p> <p>23 Exhibit 1060 NECC prescription order form of 137</p> <p>24 9/24/2012</p> <p>25 Exhibit 1061 NECC invoice for 9/25 order 140</p>



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<p style="text-align: right;">Page 6</p> <p>EXHIBITS CONTINUED</p> <p>NO. DESCRIPTION PAGE</p> <p>Exhibit 1062 Packing list from NECC for 141 9/24/2012 order</p> <p>Exhibit 1063 Packing list from NECC for 142 8/13/2012, Bates 10</p> <p>Exhibit 1064 Form from Department of Health 157 signed by Dr. Bhambhani, 10/6</p> <p>Exhibit 1065 Procedure notes of Dr. Bhambhani 201 for Ms. Rozek's procedure at Box Hill Surgery Center, 8/31/2012</p> <p>Original Exhibits attached to the original transcript.)</p>	<p style="text-align: right;">Page 8</p> <p>Offices of Peter Angelos.</p> <p>MS. KASPUTYS: Patricia Kasputys, also with the Law Offices of Peter Angelos on behalf of multiple plaintiffs.</p> <p>MS. STEINER: Catherine Steiner on behalf of Dr. Ritu Bhambhani, Ritu Bhambhani, M.D., LLC, and Box Hill Surgery Center.</p> <p>MR. KIRBY: Greg Kirby on behalf of same Box Hill defendants.</p> <p>THE VIDEOGRAPHER: Court reporter please swear in the witness and we can proceed.</p> <p>RITU T. BHAMBHANI, M.D., a witness called for examination, having been first duly sworn, was examined and testified as follows:</p> <p>EXAMINATION</p> <p>BY MR. ROTH:</p> <p>Q. Good morning Dr. Bhambhani. How are you?</p> <p>A. Good, thank you.</p> <p>Q. You understand that today I'm going to question you generally about the practice at Box Hill Surgical Center and the use of compounded materials that were manufactured or</p>
<p style="text-align: right;">Page 7</p> <p>PROCEEDINGS</p> <p>THE VIDEOGRAPHER: We are now on record. This is Tape Number 1 to the videotaped deposition of Dr. Ritu Bhambhani taken in the matter of In Re: New England Compounding Pharmacy, Inc., Products Liability Litigation.</p> <p>This deposition is being held at Pessin Katz Law, located at 901 Dulaney Valley Road, Suite 500, Towson, Maryland, 21204, on Wednesday February 10th, 2016, at 10:01 a.m.</p> <p>My name is Meeko Goodhill and I am the videographer. The court reporter is Lori Goodin.</p> <p>Counsel please introduce yourselves for the record, please.</p> <p>MR. ROTH: My name is Harry Roth. I am from the firm of Cohen Placitella &amp; Roth, and I represent the estate of Brenda Rozek.</p> <p>MR. COREN: Michael Coren on behalf of multiple plaintiffs and the estate of Brenda Rozek.</p> <p>MS. HOUSTON: Sharon Houston on behalf of multiple plaintiffs of the Law</p>	<p style="text-align: right;">Page 9</p> <p>compounded by NECC, correct?</p> <p>A. Yes.</p> <p>Q. Before today's deposition, did you review any material?</p> <p>A. Some of the materials that we have turned in, policies, procedure manuals, I requested to see, this is my first time doing a deposition. So, I requested to see a couple of depositions to get a sense of what to expect.</p> <p>Q. Okay. I had marked before we went on the record Answers to Interrogatories, Responses to Requests for Production of Documents, and Responses to Subpoena Requests.</p> <p>(Exhibit Number 1051 marked for identification.)</p> <p>(Exhibit Number 1052 marked for identification.)</p> <p>(Exhibit Number 1053 marked for identification.)</p> <p>BY MR. ROTH:</p> <p>Q. Let me show you what I have marked as Exhibit 1051, and this is the answers to the PSC's first set of interrogatories.</p> <p>Did you review these before today's deposition?</p>



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1 of just taking some things out or modifying them  
2 to make it more relevant to what I intended the  
3 practice to be.  
4 Q. Okay. And, over the course of years  
5 from, and I am correct you started Box Hill  
6 Surgery Center in 2008, correct?  
7 A. Correct.  
8 Q. And so in the course of years from  
9 2008 up until the present time, do you review the  
10 Policy and Procedure Manual annually?  
11 A. Yes. That is part of the licensure  
12 process is I am required to review it annually.  
13 Q. Okay. And you mentioned  
14 accreditation.  
15 By what entity or entities is Box  
16 Hill accredited?  
17 A. So, the accreditation is through, it  
18 is the Accreditation Agency For Ambulatory Health  
19 Centers. AAACF (sic), I think I have their full  
20 form.  
21 Q. And what is an ambulatory health  
22 center?  
23 A. A free-standing facility, which is  
24 how they categorize Box Hill Surgery Center.  
25 Q. Let's mark, and I don't have copies

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1 of this. We can do that after, this is the CV.  
2 MS. STEINER: Oh, I have extra  
3 copies. I believe I already gave one to the  
4 court reporter.  
5 (Exhibit Number 1054  
6 marked for identification.)  
7 BY MR. ROTH:  
8 Q. Your counsel gave us an updated CV  
9 that I have asked the court reporter to mark as  
10 Exhibit 1054.  
11 Can you just walk us through your  
12 medical education and postgraduate training,  
13 please?  
14 A. Medical education, so, I went to  
15 medical school in India. It is routine over  
16 there to take a, I guess the equivalent of a  
17 medical college admission test at the end of 12th  
18 grade as long as the track has been identified in  
19 11th and 12th grade which is considered the  
20 premedical track.  
21 So, I took that exam and I got  
22 admission at the government medical college  
23 Amritsar, which is the city where I was born.  
24 And I had done part of my schooling there.  
25 And then after, medical school over

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1 there is broken down into what is considered  
2 professional years, which are the equivalent of  
3 one and a half calendar year. So, it is three  
4 professional years, plus one year of mandatory  
5 internship before you get the degree.  
6 So, I did my first professional year  
7 over there and then transferred to New Delhi to  
8 Maulana Azad Medical College where I did my  
9 second and third professional years, and then did  
10 my internship over there and completed that, got  
11 my degree.  
12 And then took my USMLE to come here.  
13 And started my internship and transitional  
14 medicine in Youngstown, Ohio where my brother was  
15 at the time.  
16 Q. Uh-huh.  
17 A. And during the internship I applied  
18 to the Cleveland Clinic for my anesthesia  
19 residency; interviewed there and started my  
20 residency, finished my residency there and  
21 decided to apply for a fellowship position in  
22 pain management at the clinic.  
23 And completed that at the clinic.  
24 And then came here to Baltimore to start my first  
25 job.

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1 Q. Okay. And your first job was at  
2 Chesapeake Perioperative Services?  
3 A. Correct.  
4 Q. You are, are you board certified in  
5 anesthesia and pain management?  
6 A. I am.  
7 Q. And, typically when we think of  
8 anesthesia, we think of somebody sitting in the  
9 operating room and delivering anesthesia during  
10 surgery or operative procedures.  
11 Do you practice that type of  
12 anesthesia?  
13 A. I do.  
14 Q. Okay. And, can you tell me, is  
15 there a difference between the practice of that  
16 type of anesthesia and pain management?  
17 A. Probably a broad stroke difference  
18 would be anesthesia in general is done for  
19 patients who are undergoing a procedure. And the  
20 main role of the anesthesiologist is to have the  
21 patient undergo it without undue pain, so whether  
22 it is sedation or general anesthesia, where they  
23 are completely asleep.  
24 Pain management on the other hand is  
25 where the focus is more in helping diagnose or



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<p style="text-align: right;">Page 26</p> <p>1 manage pain --</p> <p>2 Q. Okay.</p> <p>3 A. -- unrelated to surgical pain.</p> <p>4 Q. Is the, your fellowship in pain</p> <p>5 management focuses on that latter type of</p> <p>6 treatment obviously.</p> <p>7 A. Well, the fellowship itself, yes,</p> <p>8 you are right. The fellowship itself encompassed</p> <p>9 both acute post-operative pain. So, still</p> <p>10 somewhat related to the post-surgical period.</p> <p>11 That is just the nature of that particular</p> <p>12 fellowship program.</p> <p>13 Q. Uh-huh.</p> <p>14 A. But also a bigger emphasis was on</p> <p>15 non surgery related chronic pain.</p> <p>16 Q. When you began your practice at</p> <p>17 anesthesiology and pain, I'm sorry, Chesapeake</p> <p>18 Perioperative Services, and if this is not the</p> <p>19 way to ask the question you will let me know, but</p> <p>20 how much of your time was spent in the operating</p> <p>21 room delivering anesthesia to surgical patients</p> <p>22 versus seeing patients for pain management?</p> <p>23 A. So, I was brought on board by,</p> <p>24 mainly by, it was a group of practicing</p> <p>25 anesthesiologists and they had one physician who</p>	<p style="text-align: right;">Page 28</p> <p>1 off where I was seeing maybe half a day of pain</p> <p>2 patients and just gradually grew a little bit</p> <p>3 more.</p> <p>4 By the time I left there I was</p> <p>5 probably doing that anywhere from one to two days</p> <p>6 a week.</p> <p>7 Q. Doing that being?</p> <p>8 A. Pain management. And then doing</p> <p>9 anesthesia.</p> <p>10 I was still taking calls for the</p> <p>11 anesthesia part, which was overnight call at the</p> <p>12 hospital, the same as any other member in the</p> <p>13 group, and then doing anesthesia in the ORs, the</p> <p>14 days I wasn't doing pain management during the</p> <p>15 daytime.</p> <p>16 Q. Okay. And you stayed there for a</p> <p>17 little less than three years according to your CV.</p> <p>18 A. Uh-huh.</p> <p>19 Q. And moved on to Harford County</p> <p>20 Ambulatory Surgery Center.</p> <p>21 Were you the Director of</p> <p>22 Anesthesiology and Pain Management the entire</p> <p>23 time you were at Harford County?</p> <p>24 A. Actually, no. When they hired me at</p> <p>25 Harford County Ambulatory Surgery Center it was</p>
<p style="text-align: right;">Page 27</p> <p>1 was practicing both anesthesia and pain</p> <p>2 management.</p> <p>3 And he wanted to continue doing both</p> <p>4 and the case load for pain management was, I</p> <p>5 guess, increasing to the point where he felt that</p> <p>6 the group needed to bring on another physician</p> <p>7 who could see the chronic pain management</p> <p>8 patients.</p> <p>9 So, when I first started, it was a</p> <p>10 gradual process. I was there for just a little</p> <p>11 less than three years.</p> <p>12 So, when I first started, he himself</p> <p>13 was doing, I think two, maybe two and a half days</p> <p>14 of pain, and anesthesia in the operating rooms</p> <p>15 the rest of the time.</p> <p>16 I probably, when I started, because</p> <p>17 it was a matter of then starting off seeing</p> <p>18 patients and gradually as that part of the</p> <p>19 practice built up, because there was the ability</p> <p>20 for us to see patients, more than just the one</p> <p>21 physician, my interest was still strongly to</p> <p>22 continue doing both anesthesia and pain</p> <p>23 management.</p> <p>24 So, we kind of shared the case load</p> <p>25 for the pain procedures. So it probably started</p>	<p style="text-align: right;">Page 29</p> <p>1 to replace an anesthesiologist who was, who had</p> <p>2 retired and they had an interim anesthesiologist</p> <p>3 who also was close to retiring, so they needed</p> <p>4 someone to do anesthesia there.</p> <p>5 When they hired me to do anesthesia,</p> <p>6 I am not sure that they were aware that I was</p> <p>7 pain-fellowship trained.</p> <p>8 And, so that was a, that is</p> <p>9 something that evolved a little bit after I had</p> <p>10 already joined or started working for them.</p> <p>11 And as far as the director, I was</p> <p>12 the only anesthesiologist there full-time, which</p> <p>13 kind of made me director by default.</p> <p>14 Q. Okay.</p> <p>15 A. But the pain management part</p> <p>16 happened later.</p> <p>17 Q. So, can you tell me when it was that</p> <p>18 you became the director of pain management at</p> <p>19 Harford County?</p> <p>20 A. I couldn't say. I'm not sure if</p> <p>21 somewhere in there, I don't know, any kind of</p> <p>22 paperwork or something if they have that as</p> <p>23 formally identified that I was made director of,</p> <p>24 I mean, it started off where they hired me mainly</p> <p>25 to be their anesthesiologist. They have two</p>



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1 operating rooms and I was covering those.  
 2 And, once they realized I had done a  
 3 pain fellowship, asked if I had an interest in  
 4 seeing pain patients, and I said sure.  
 5 So, it was my practice eventually  
 6 became a little bit similar to what I had done at  
 7 Franklin Square Hospital, where I was doing  
 8 anesthesia some days and pain other days. Again  
 9 started gradually.  
 10 And then by the time I think I left  
 11 them, I was doing about the same, maybe two days  
 12 of, two, two a half days of pain management, and  
 13 two and a half to three days of anesthesia.  
 14 Q. Okay. According to your CV you left  
 15 there in June of 2008. And that is, and started  
 16 Box Hill Surgery Center in July of 2008.  
 17 A. So, I started my practice in July of  
 18 2008.  
 19 Box Hill Surgery Center --  
 20 Q. I asked a bad question so let me try  
 21 a different thing.  
 22 You left Harford in June of 2008.  
 23 A. Yes.  
 24 Q. Is that correct?  
 25 A. Yes.

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1 Q. In July of 2008, your CV says you  
 2 went into private practice, and was Box Hill  
 3 Surgery Center an existing entity at that time?  
 4 A. No.  
 5 Q. And did you start Box Hill Surgery  
 6 Center?  
 7 A. I did.  
 8 Q. And from 2008 to 2012, what was the  
 9 business, if you will, of Box Hill Surgery  
 10 Center?  
 11 A. Just Box Hill Surgery Center was  
 12 where I was doing, it functioned as a  
 13 free-standing ambulatory surgery center where I  
 14 was doing probably most of my chronic pain  
 15 procedures.  
 16 Q. Okay. I want to mark as  
 17 Exhibit 1055.  
 18 (Exhibit Number 1055  
 19 marked for identification.)  
 20 BY MR. ROTH:  
 21 Q. And this has been produced to us, it  
 22 has Bates number BHSC 000260.  
 23 MS. STEINER: Which is the earlier  
 24 version of the CV.  
 25 BY MR. ROTH:

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1 Q. The version, this is a version of  
 2 your CV that was produced to us before today.  
 3 Between 2008 and 2012, and I mean  
 4 the end of 2012, how much of your practice was  
 5 pain management versus, were you doing any  
 6 delivery of anesthesia in the operating rooms?  
 7 A. I have continued to do anesthesia  
 8 the entire time.  
 9 Probably varied a little bit over  
 10 time when I first started my practice.  
 11 I picked up more anesthesia time at  
 12 local surgery centers as an independent  
 13 contractor.  
 14 As the pain practice got more  
 15 established, oh, and I was doing anesthesia for  
 16 Harford County Ambulatory Surgical Center  
 17 part-time also. And then for a period of time it  
 18 was fairly steady where I was doing one day of  
 19 anesthesia at Harford County Ambulatory Surgical  
 20 Center, seeing office patients three, three and a  
 21 half days a week and then doing procedures  
 22 usually a half to one day a week.  
 23 Q. The reason why I showed you the  
 24 earlier version of your CV is, it does not have a  
 25 section where it says current privileges active

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1 as the one that was provided today does.  
 2 So, there was no mention today of  
 3 active privileges anywhere other than Box Hill.  
 4 And on the CV you provided today which was 1054,  
 5 you list Harford County Ambulatory Surgical  
 6 Center and Surgical Center of White Marsh as  
 7 active privilege -- places where you have active  
 8 privileges in addition to Box Hill.  
 9 Did you, before, between 2008 and  
 10 the end of 2012, have active privileges for  
 11 Harford County Ambulatory Surgical Center and the  
 12 Surgical Center of White March?  
 13 A. Harford County Ambulatory Surgery  
 14 Center, yes. Surgical Center of White Marsh was  
 15 not open in 2008.  
 16 Gosh, I'm not sure I remember  
 17 exactly when they opened, but I have been going  
 18 there, here and there, for at least the last,  
 19 off-and-on, the last year or two. They were  
 20 not --  
 21 Q. The last year or two would take us  
 22 back to 2014.  
 23 A. Correct. I don't know if they  
 24 existed. Definitely not in 2008 and I'm not sure  
 25 if they existed even in 2012.



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<p style="text-align: right;">Page 34</p> <p>1 Q. And you have a courtesy privilege</p> <p>2 listed in your current CV at the University of</p> <p>3 Maryland Upper Chesapeake Medical Center and</p> <p>4 MedStar Franklin Square Hospital.</p> <p>5 What does that mean?</p> <p>6 A. Courtesy privileges is where they</p> <p>7 have changed the definitions a little bit over</p> <p>8 time, the hospitals have.</p> <p>9 Currently what that is is I can go</p> <p>10 in, have access to a patient record, but I'm not</p> <p>11 actively, I don't have privileges to actively</p> <p>12 take care of a patient.</p> <p>13 Q. Okay. Between 2008 and 20, the end</p> <p>14 of 2012, were you seeing patients at Harford</p> <p>15 County Ambulatory Surgery Center for pain</p> <p>16 management.</p> <p>17 A. I did, for approximately a year.</p> <p>18 Because I started the pain practice, I actually</p> <p>19 got active privileges at Upper Chesapeake, to be</p> <p>20 able to, I needed a place to do the procedures.</p> <p>21 The office setup was not set up to be able to do</p> <p>22 x-ray guided procedures.</p> <p>23 So, I requested privileges at Upper</p> <p>24 Chesapeake and requested to continue privileges</p> <p>25 at Harford County Ambulatory Surgery Center for</p>	<p style="text-align: right;">Page 36</p> <p>1 a pain procedure, possible.</p> <p>2 If, since I was still doing</p> <p>3 anesthesia there, if there was, I guess, the best</p> <p>4 example that comes to mind off the top of my head</p> <p>5 right now is there was a physician who had seen</p> <p>6 me at Harford County Ambulatory Surgery Center as</p> <p>7 a patient, and he knew I worked at Harford</p> <p>8 County's Ambulatory Surgery Center for</p> <p>9 anesthesia, and I remember him calling me one</p> <p>10 time when I was doing anesthesia there to see if</p> <p>11 I could see him for his pain, for a procedure.</p> <p>12 And do it over there because of some</p> <p>13 insurance reason, I'm not sure what it was. But</p> <p>14 it was easier for him to get it done at Harford</p> <p>15 County, and I said yes.</p> <p>16 So, I know I still had privileges</p> <p>17 there, but I wasn't routinely going there a</p> <p>18 certain day of the week or routinely doing</p> <p>19 procedures there.</p> <p>20 Q. When you would see patients at</p> <p>21 Harford County, and again if I'm asking this the</p> <p>22 wrong way, you will let me know; I'm sure your</p> <p>23 lawyers will.</p> <p>24 But what I'm trying to find out is</p> <p>25 were these patients, were these Harford County</p>
<p style="text-align: right;">Page 35</p> <p>1 pain procedures.</p> <p>2 I continued going to Harford County</p> <p>3 Ambulatory Surgery Center even after Box Hill was</p> <p>4 open for pain procedures, because even though, I</p> <p>5 guess, doors were opened, the licensure process,</p> <p>6 the accreditation, insurance contracts, they took</p> <p>7 time.</p> <p>8 So, for that initial, I'm not sure</p> <p>9 exactly dates, but, probably almost a year I was</p> <p>10 still doing some of my procedures at Harford</p> <p>11 County Ambulatory Surgery Center.</p> <p>12 Q. Okay. And, not holding you to a</p> <p>13 precise time, would it be fair to say that after</p> <p>14 July of 2009, say, you were not delivering pain,</p> <p>15 I'm sorry, you were not seeing pain management</p> <p>16 patients at Harford County?</p> <p>17 A. Not on a regular basis.</p> <p>18 Q. Okay. Well then let me, I just want</p> <p>19 to be clear.</p> <p>20 Were there times after that first</p> <p>21 year, up to the end of 2012, when you would treat</p> <p>22 patients, pain management patients, at Harford</p> <p>23 County Ambulatory Center?</p> <p>24 A. I'm not sure about 2012. But,</p> <p>25 somewhere between 2009 and 2012 could I have done</p>	<p style="text-align: right;">Page 37</p> <p>1 patients or Box Hill patients?</p> <p>2 A. That is easy to answer. They were</p> <p>3 Ritu Bhambhani patients.</p> <p>4 Q. Okay. Tell me about that.</p> <p>5 A. So, the pain practice, once I left</p> <p>6 Harford County Ambulatory Surgery Center,</p> <p>7 patients that I saw were Ritu Bhambhani's chronic</p> <p>8 pain patients.</p> <p>9 Q. Okay.</p> <p>10 A. A certain percentage of those</p> <p>11 patients, if they needed a procedure, had the</p> <p>12 option to have it done at Box Hill Surgery</p> <p>13 Center, had the option to get it done at Upper</p> <p>14 Chesapeake, had the option to get it done at</p> <p>15 Harford County Ambulatory Surgery Center, because</p> <p>16 I had privileges at all of those places.</p> <p>17 So any patient that I might have</p> <p>18 injected at Harford County Ambulatory Surgery</p> <p>19 Center after July of 2008 would have been Ritu</p> <p>20 Bhambhani's patient going to Harford County</p> <p>21 Ambulatory Surgery Center where they are the</p> <p>22 places where it is being done, so there is a</p> <p>23 facility where it is being done.</p> <p>24 But, the provider, the physician</p> <p>25 would be Ritu Bhambhani.</p>



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1 supplies from was fairly straightforward.

2 I essentially asked the person who

3 was responsible for acquiring supplies at Harford

4 County and reached out to pretty much the same

5 people, be it a rep or a vendor or a supplier,

6 and decided we were, that is where we were going

7 to get our products from.

8 Q. When you started Box Hill, had you

9 ever -- I think you told me you had never run a

10 free-standing ambulatory center before.

11 A. Correct, I had not.

12 Q. You mention that you spoke with a

13 lawyer who gave you a form of the Policy and

14 Procedure Manual to review. Right?

15 A. Correct.

16 Q. Did you work with any other

17 consultant to figure out how to open and run a

18 ambulatory center?

19 A. The lawyer was the consultant. His

20 role was to help set up, go through the initial

21 licensure process. Did I use any other

22 consultant?

23 Q. Sure. Yes.

24 A. Not that I remember.

25 Q. Did the lawyer provide you with any

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1 information about, you know, the equipment that

2 you would need, the medications you would need,

3 you know, the stuff you need to run an ambulatory

4 pain management center?

5 A. Since the purpose of Box Hill was

6 mainly to do procedures for my patients, and I

7 have been doing those already at the time for

8 almost eight years, I didn't necessarily ask of

9 what I would need.

10 In terms of the question of where,

11 like I said, I had been using these things at

12 Harford County, I was still actively providing

13 care there. So it was fairly simple to ask them.

14 That is a multi-specialty surgery

15 center providing other services. I was mainly

16 asking about what I was requiring for my pain

17 procedures, because I was intending to do similar

18 procedures as I was there already for years, to

19 ask where they were getting the supplies from and

20 I just continued the same.

21 Q. And do you remember who it is that

22 you spoke to at Harford to get that information?

23 A. For supplies mainly?

24 Q. I'm really thinking now about

25 medications.

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1 A. Okay. For medications, mainly, it

2 would either be Barbara Wagner who does most of

3 their ordering, or it would be their nurse

4 manager, Kim Marrow.

5 Q. And is Barbara Wagner a physician?

6 A. No, she does their ordering; she is

7 a surgical tech who is, does most of their

8 ordering.

9 Q. Okay. Along the course of your

10 training in anesthesia and pain management, is

11 one of the things you learn, you know, about the

12 actual medications, the agents that provide pain

13 relief?

14 MS. STEINER: Objection as to form.

15 You can answer.

16 THE WITNESS: I'm not sure I

17 understand.

18 BY MR. ROTH:

19 Q. Sure. I mean, did you receive

20 training in what types of medications or

21 compounds worked to provide pain relief?

22 A. Where I did my residency and

23 fellowship?

24 The best that I remember for almost

25 the entire time, at least during the fellowship,

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1 for the most part the agents were pretty much the

2 same.

3 So, if there were any discussions

4 as, you know, part of a didactic session, I don't

5 remember exactly, but, it was, was there a

6 lecture on? Is that the question? On

7 medications?

8 Q. I guess what I'm trying to

9 understand is, was it your responsibility as the

10 Medical Director of Box Hill, or as a physician

11 administering agents to your patients, is it your

12 responsibility to understand the benefits and

13 risks of the medications that you are

14 administering?

15 MS. STEINER: Let me just object to

16 the question because you are, you are

17 switching between present tense, past tense,

18 and training. And I'm not sure.

19 MR. ROTH: Fair enough.

20 MS. STEINER: I'm not sure which

21 question she is supposed to answer right now.

22 MR. ROTH: I thought she answered

23 with respect to training so I just want to

24 jump to it a little bit.

25 I mean, you know, and I don't know



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<p style="text-align: right;">Page 78</p> <p>1 don't recall making a differentiation at the 2 time. 3 Q. Okay. Have you, since using, 4 starting using preservative-free MPA, can you 5 tell me approximately when that was? 6 A. Sometime when I started doing pain 7 at Harford County Ambulatory Surgical Center. 8 I would have to guess I started 9 there in mid-2008. So, sometime around -- 10 MS. STEINER: I think you are off. 11 THE WITNESS: Oh, I'm sorry, 2003. 12 So, somewhere between that and 2004. 13 BY MR. ROTH: 14 Q. Okay. And again I was really just 15 looking for an approximation. 16 A. Right, right, right. 17 Q. Because I wanted to know, since you 18 began using preservative-free MPA, and by the way 19 was that always, that was always compounded? The 20 preservative-free MPA? 21 MS. STEINER: Objection as to 22 foundation. 23 BY MR. ROTH: 24 Q. Well, was the preservative-free MPA 25 that you began using a compounded steroid?</p>	<p style="text-align: right;">Page 80</p> <p>1 them, that the preservatives in steroids made, 2 created risks for patients? 3 MS. STEINER: Can you give a time 4 frame on that? 5 BY MR. ROTH: 6 Q. I want to know from approximately 7 2004? 8 MS. STEINER: Four. 9 BY MR. ROTH: 10 Q. Until the recall, did you ever look 11 at the issue of whether preservatives in steroids 12 carried a risk to patients? 13 A. Other than the discussion with 14 Dr. Dickson when he suggested that I try it and 15 the reason that he gave, I don't remember reading 16 a specific article about that. 17 Q. Okay. And was there any discussion 18 with Dr. Dickman about whether or not there were 19 other -- well, there were different manufacturers 20 of preservative-free MPA. 21 MS. STEINER: Objection as to form 22 and foundation. 23 THE WITNESS: I had no, I guess, 24 reason to ask about manufacturers. Just 25 like, you know, when I was at Franklin</p>
<p style="text-align: right;">Page 79</p> <p>1 A. At Harford County Ambulatory Surgery 2 Center? 3 Q. Yes. 4 A. I know they were getting it from 5 NECC because that is more so not so much 6 initially when they first started getting, like I 7 said I wasn't involved with the process of 8 getting the medication. 9 But, more so finding out where they 10 were getting it from as I was getting ready to 11 start my practice when, you know -- 12 Q. Understood. So, I was looking back 13 after your conversation with, I think her name 14 was Barbara. 15 A. Yes. 16 Q. You learned they got their MPA from 17 NECC? 18 A. Correct. 19 Q. And you learned that that was a 20 compounding pharmacy? 21 A. Most likely, yes. 22 Q. Okay. In any event, since you began 23 using preservative-free MPA, did you do any 24 research or personal investigation to determine 25 whether or not steroids that had preservatives in</p>	<p style="text-align: right;">Page 81</p> <p>1 Square, he was there. These were the 2 steroids available, this is what I used, 3 okay. 4 Over here, I was not involved in the 5 ordering process. So, I don't remember 6 asking about the actual source at the time 7 when he first -- it probably would have been 8 more a discussion between him and the person 9 ordering, or their nurse manager there at the 10 time. 11 BY MR. ROTH: 12 Q. In 2008 when you became the person 13 responsible for deciding what medications to 14 purchase for Box Hill and for your patients -- 15 A. Uh-huh. 16 Q. -- until the recall, did you 17 investigate whether or not there were other 18 manufacturers of preservative-free MPA than NECC? 19 A. No. 20 Q. Are you aware or were you aware of 21 whether or not there were any preservative-free 22 steroids available other than the MPA, I'm sorry, 23 and let me set my time frame. 24 After you became responsible for 25 purchasing, for deciding what steroids would be</p>



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<p style="text-align: right;">Page 82</p> <p>1 purchased for Box Hill, until the recall, did you 2 know whether or not there was available 3 preservative-free steroids other than what you 4 were purchasing from NECC?</p> <p>5 A. I had no reason to, or at least the 6 best that I remember, I don't remember having to 7 look for another source. I mentioned earlier it 8 was something that I used for years prior, so it 9 was a, not just this one thing but most of the 10 supplies that I got was a simple, kind of thing 11 to say, okay, this is where they got it from, I 12 have used this before, I was fine with it and 13 this is what I'm going to continue using.</p> <p>14 If I used, like I said anything 15 other than this, I don't remember having to 16 either ask Andy or my nurse or me personally 17 thinking of let me look for an alternative.</p> <p>18 Q. Okay. And again you say you don't 19 remember doing it.</p> <p>20 But, between 2008 and the time of 21 the recall, was NECC your sole source for 22 injectable steroids at Box Hill?</p> <p>23 A. For the most part. The only part I 24 don't remember, I know somewhere in there, there 25 were case reports of particulate steroid causing</p>	<p style="text-align: right;">Page 84</p> <p>1 was getting them from, and, reaching out to the 2 same providers of the different supplies and 3 either, you know, me myself, if I had time or 4 giving it to the nurse and saying research and 5 I'm going with that.</p> <p>6 Q. When you first became responsible 7 for ordering the steroids at Box Hill, other than 8 saying, asking, I mean, is it basically Barbara, 9 where did we get the steroids from and she told 10 you it was NECC and gave you contact information?</p> <p>11 A. More than likely that is how I would 12 have, like I said, not just the steroid, that 13 would have been for pretty much --</p> <p>14 Q. For everything?</p> <p>15 A. -- for most supplies that I would 16 use for the pain procedures.</p> <p>17 Q. Okay. And when she gave you 18 information, first of all, when you were at 19 Harford, had you had any contact with anybody 20 from NECC?</p> <p>21 A. Not, to the best of my recollection.</p> <p>22 Q. Had any, anybody ever talked to you 23 at all, had you even heard the name NECC before 24 you asked Barbara where do we get the steroid 25 from?</p>
<p style="text-align: right;">Page 83</p> <p>1 problems in cervical injections.</p> <p>2 What I don't remember is if I had 3 that discussion with the nurse at Box Hill or 4 Harford County where I wanted to try a 5 nonparticulate steroid, and there is only a 6 couple of different options there that I would 7 have used that.</p> <p>8 But as far as the preservative-free 9 MPA, the best I know NECC was pretty much our 10 source the entire time.</p> <p>11 Q. Okay. Let me turn a little bit 12 about the decision to use NECC.</p> <p>13 You said you spoke with Barbara 14 Wagner at Harford. What do you recall about your 15 conversation about using NECC?</p> <p>16 A. I wouldn't recall a conversation 17 from 2008.</p> <p>18 The general sense of the time was 19 getting a list of, you know, okay, she says, you 20 know, these are the gloves you used to use, this 21 is the local anesthetic that you have used for 22 the last five years, this is the skin prep you 23 have used for the last five years, this is the 24 steroid you have used, this is the pointers you 25 use, and getting that list and seeing where she</p>	<p style="text-align: right;">Page 85</p> <p>1 A. I mean, if I had, you know, in the 2 general course of being there five days a week as 3 their anesthesiologist, but I don't remember 4 anything out of the ordinary.</p> <p>5 Q. Okay. Did you ever get any -- 6 strike that.</p> <p>7 In 2008, when you became responsible 8 for purchasing your medications and steroids and 9 Barbara tells you okay, we got this stuff from 10 NECC, did you talk to, did you find out any 11 information about how NECC, you know, did its 12 work? Made its compounds?</p> <p>13 MS. STEINER: Objection as to form 14 and foundation.</p> <p>15 THE WITNESS: How they made their 16 compounds?</p> <p>17 BY MR. ROTH:</p> <p>18 Q. Sure.</p> <p>19 A. I was ordering something I had used 20 before. I have no reason to ask that particular 21 question of any of the suppliers of any of the 22 products I was getting at the time because I 23 wasn't really, in my mind at least I wasn't 24 changing anything of what I had done at an 25 established center. They were Medicare certified</p>



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1 state licensed, AAAC accredited, I had done it  
2 for years over there. I was not consciously  
3 making a particular change to look into anything  
4 further about these specific companies, I guess.  
5 Q. Okay.  
6 A. Process.  
7 Q. And, so, all of those things you  
8 were mentioning about they were Medicare  
9 approved, they were AAA, you know, rated, that  
10 related to Harford, right?  
11 A. Uh-huh.  
12 MS. STEINER: That is a yes?  
13 THE WITNESS: Yes, sorry.  
14 BY MR. ROTH:  
15 Q. So, in a, do I understand then  
16 because they were relying on this, on these  
17 providers, whether it was NECC or others, that  
18 was a good enough reference for you to use those  
19 providers as well when you started your own shop?  
20 A. I mean, I had used those things  
21 before.  
22 So, the fact that I was at a place  
23 that I had worked at and I had used those  
24 products before for every single thing that I  
25 needed to continue doing pain management, it

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1 seemed like a reasonable thing to continue using  
2 the same.  
3 Q. What is a compounding pharmacy? I  
4 mean, do you know what a compounding pharmacy is?  
5 A. If they have like a legal  
6 definition, I'm not sure.  
7 But, my best understanding is it is  
8 a pharmacy that can put together a medication in  
9 a form that a, I guess a regular manufacturing  
10 company does not.  
11 Q. Okay. And, do you, did you, between  
12 2008 and the time of the recall, know whether or  
13 not compounding pharmacies were subject to FDA  
14 oversight?  
15 A. Since the day I came to the country  
16 I assumed every medicine is under FDA oversight.  
17 So I have to admit I don't recall ever  
18 specifically thinking about the, oversight over  
19 compounding pharmacies specifically.  
20 Q. Okay. So, I take it then you were  
21 not aware that compounded drugs don't have FDA  
22 findings of safety, efficacy and manufacturing  
23 quality.  
24 MS. STEINER: Objection as to form  
25 and foundation.

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1 THE WITNESS: I'm sorry, say that  
2 again.  
3 BY MR. ROTH:  
4 Q. I take it then that you were not  
5 aware that compounded drugs lack FDA findings of  
6 safety, efficacy, manufacturing quality.  
7 MS. STEINER: Objection as to form  
8 and foundation.  
9 THE WITNESS: I do not know about  
10 the FDA's thing other than back then and even  
11 now I work under what I think is a reasonable  
12 assumption that the FDA has oversight over  
13 any medication, prescription or  
14 over-the-counter.  
15 BY MR. ROTH:  
16 Q. Well, sitting here today, if you  
17 were to learn that compounding pharmacies do not  
18 have FDA oversight, would that affect your  
19 thinking about whether or not you would prescribe  
20 compounds for your patients?  
21 MS. STEINER: Objection as to form  
22 and foundation.  
23 THE WITNESS: Still sitting here  
24 today, I find it hard to believe that FDA  
25 does not have oversight over a medication.

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1 BY MR. ROTH:  
2 Q. Okay. So I want you to assume for a  
3 moment that the FDA did not have oversight over  
4 compounded pharmacies.  
5 Would that affect your decision  
6 about whether or not to prescribe or use  
7 compounds for your patients?  
8 MS. STEINER: Let me just object to  
9 the hypothetical, because you are asking her  
10 to assume something prior to the 2012 time  
11 frame and asking her to make a decision now  
12 based upon it.  
13 BY MR. ROTH:  
14 Q. Well, I'm actually asking her now.  
15 I'm sorry if I got my tenses screwed up.  
16 Were you to learn that the FDA does  
17 not have oversight over compounded pharmacies,  
18 would that affect your decision about whether or  
19 not to prescribe or use compounds for your  
20 patients?  
21 MS. STEINER: Objection. Same  
22 objection.  
23 THE WITNESS: I have to admit I  
24 would find it very hard to envision the FDA  
25 not having oversight over a medication.



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Page 158

1 BY MR. ROTH:

2 Q. Correct. All right. Here is the

3 back page. Thank you.

4 Doctor, whose handwriting was on

5 this form?

6 A. Mine.

7 Q. And what is this form?

8 A. This was a form sent to me by the

9 physician at the Department of Health. I want to

10 say at the time it was Dr. Maria Saeed.

11 Q. Okay.

12 A. Who was my contact person at the

13 Department of Health as of October 1st on. When

14 I was first contacted by them.

15 And, I, oh, October 6th.

16 So, they were, I'm trying to

17 remember. Because this was sent to us via

18 e-mail. I don't remember whether it was

19 individually addressed to me, because a lot of

20 the e-mails are being sent as group e-mails to a

21 lot of the Maryland facilities to collect this

22 kind of data where they needed to know the

23 information that they were collecting on this.

24 Q. Okay. And, so, this form came to

25 you, obviously, after the problem was identified

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1 and you say the Department of Health, that is the

2 Maryland State Department of Health, right?

3 A. Correct.

4 Q. And, the, what did you do to get the

5 information to respond to this form?

6 A. To the best of my recollection the

7 0810 was the most straightforward. That

8 particular large shipment had not even been put

9 away in the medicine cabinet when the recall

10 notice came. So, that was already separated out.

11 So it was easy to do that part. As far as the

12 0629 lot, it was a matter of that is what we had

13 on hand, so we could identify clearly that we had

14 that on hand.

15 We knew the shipment date. And, we

16 essentially, since we essentially then said that

17 from the time we had received that medication

18 potentially any procedures done from that date

19 until the date of the, that we had last used that

20 lot, those were the patients exposed to that one.

21 And then for the 0521, I'm not

22 100 percent --

23 Q. I'm sorry, just to be clear it is

24 0512.

25 A. Oh, this is 0521.

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1 Q. 0521. You are 100 percent right.

2 Just to be clear, I got it wrong.

3 A. And the 0521 lot again that was

4 simple. We had only used it one day and for one

5 other patient. So, again that was

6 straightforward.

7 Q. When was the lot 0521 purchased?

8 A. Not purchased from NECC.

9 After I had been contacted by

10 Mr. Rozek about Mrs. Rozek's passing away, he

11 had, I think called me on my phone to let me know

12 that she had passed away.

13 Right around the same time, I am not

14 sure of the exact dates, again I could look in

15 charts and be more certain on those. Right

16 around the same time I had received a call from

17 Ms. Dreisch that she had been to the hospital a

18 couple of times. We had done an internal, we is

19 Andy and I, had sat down and looked at our

20 internal process. The two patients had presented

21 at different hospitals, very different

22 presentations.

23 I had already spoken, when Ms. Rozek

24 passed away, I had already spoken with a

25 physician at Johns Hopkins, which was not the

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1 initial hospital where she had been admitted, who

2 had asked questions about her procedure, whether

3 there had been anything untoward during the

4 procedure.

5 I had already looked at my images

6 that I had saved from her procedure. We usually

7 save an image, usually when I inject the dye to

8 confirm needle placement.

9 Just trying to see if there was any

10 correlation.

11 They, at the time were not sure what

12 had led to her illness, either her initial

13 hospital where she was admitted based on what

14 Mr. Rozek told me or Johns Hopkins, I think I

15 spoke to the intensivist there.

16 And they were just looking at all

17 different aspects I guess, of her health prior

18 to that. And since the injection was something

19 that had happened a couple of weeks prior to her

20 being sick.

21 And then on the other side was

22 Ms. Dreisch, very different presentation,

23 different hospital, being treated for a very

24 different kind of symptom complex.

25 We just said because those were two



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1 patients who had had injections, Andy and I sat  
2 down and just did an internal kind of thorough  
3 review of our process to see was there anything  
4 that we could identify that could tie those two  
5 patients to their procedures.  
6 And, not being able to explain,  
7 based on anything that Ms. Dreisch had told me or  
8 Mr. Rozek or the intensivist, we just sat down  
9 and just kind of reviewed our process from the  
10 time the patient walks in the door until the time  
11 they leave. Everything that happens to them, who  
12 all takes care of them, and we just decided we  
13 were just going to maybe look at, is there  
14 something else that we can do.  
15 We could not figure out at that  
16 point any correlation with the procedure. At  
17 least we didn't have an explanation, none of the  
18 other providers seemed to.  
19 We decided, you know, if it was  
20 somehow related to something that happened here,  
21 is there anything else we could do? And the one  
22 thing that came to mind was, well as we order  
23 supplies, not knowing what it was, I told Andy,  
24 let's reorder all of our injectables and anything  
25 that is sterile, you know, gloves, their skin

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1 prep, what have you, and make sure no one had  
2 been sick on our staff recently.  
3 Because one of the things that  
4 Ms. Dreisch's initial working diagnosis that she  
5 was being treated for, that she had told us was a  
6 viral meningitis, which is usually community  
7 acquired.  
8 So, I couldn't come up with anything  
9 there.  
10 So, thinking of that kind of a  
11 transmission, I started asking all of my staff to  
12 start wearing a mask if they were going to be in  
13 the operating room. Prior to that I used to wear  
14 a mask. I started saying well everyone wear a  
15 mask.  
16 So, coming to the 0521, it wasn't  
17 ordered from NECC. I found out about Ms. Rozek's  
18 passing away, whatever day. Andy said okay, I  
19 will place a new order, then came back and said  
20 well they are not going to be able to get it to  
21 us prior to a certain date. You have a procedure  
22 day before that. So, I reached out to Harford  
23 County Ambulatory Surgery Center where I was  
24 still doing anesthesia, and asked if we could  
25 borrow medication from them.

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1 I borrowed that 35 vials off that  
2 lot number and used it for, I think, 24 patients  
3 one day and one other patient another day while  
4 we placed our own order, the 21st. So, the  
5 procedure is done on the 21st were done using  
6 this medication, the 0521 lot that was borrowed  
7 from Harford County.  
8 Q. That procedure was done on  
9 September 21st?  
10 A. Correct.  
11 Q. Were done using 0521 2012.  
12 A. Right. And even earlier in that  
13 week, if I remember, there might have been one  
14 procedure on a day. Because, that was a few days  
15 after the 17th. On the 17th already, the 17th is  
16 when I found out about her passing away. I  
17 talked to Andy probably right away or the next  
18 day and said let's figure something out. Let's  
19 sit down and go over everything. I'm going to  
20 say that it was probably later that day on the  
21 17th.  
22 And, when we started talking about,  
23 okay, what are the different things we are going  
24 to do, and we decided we are going to order the  
25 21st was a regular procedure day.

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1 So, by the 18th, 19th, he is like,  
2 okay, well, we will order the next lot in the  
3 meantime let's use, if we can borrow it from  
4 Harford County, so that is what we borrowed from  
5 them.  
6 Q. Okay. The, did you know when you  
7 contacted Harford that the MPA, the preservative-  
8 free, you asked for preservative-free MPA?  
9 A. That is what they were using at the  
10 time. So I asked for it.  
11 Q. So, you were, you knew that you were  
12 using NECC provided MPA?  
13 A. Yes.  
14 Q. Okay. Did you call NECC after your  
15 November, September 17th when you had this  
16 meeting with Andy and before you got the notice  
17 of recall?  
18 A. I didn't call NECC or any of the  
19 others. Like I said, at the time it was more  
20 just trying to come up with any way to correlate  
21 or to explain what those two patients were going  
22 through or had gone through.  
23 And, figuring out was there anything  
24 in our process, not just a medicine, not an  
25 injection, but just our whole, like I was even



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VIDEOTAPED DEPOSITION OF RITU T. BHAMBHANI, M.D. on 02/10/2016

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1 country, that that is a worry I should have.

2 Q. And, have you since the recall

3 learned of ways you as a physician can find out

4 about the, how a compounding pharmacy carries out

5 their tasks?

6 MS. STEINER: I'm sorry, you are

7 going to have to repeat that, because I lost

8 you somewhere along the way.

9 MR. ROTH: It seems to be the day.

10 I'm sorry.

11 BY MR. ROTH:

12 Q. Have you since the recall found out

13 ways that you as a physician can, you know, learn

14 how a compounding pharmacy, you know, makes sure

15 its stuff is sterile.

16 MS. STEINER: Objection as to form

17 and foundation.

18 THE WITNESS: Generally speaking,

19 when the recall happened, or maybe more

20 important -- give me a minute.

21 BY MR. ROTH:

22 Q. Yes, sure, let's go off the record

23 for a second.

24 THE VIDEOGRAPHER: Off the record at

25 2:53.

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1 (Recess taken -- 2:53 p.m.)

2 (After recess -- 2:59 p.m.)

3 THE VIDEOGRAPHER: Back on at 2:59.

4 MR. ROTH: So could you read back my

5 last question please?

6 (Whereupon, the record was read by

7 the reporter as requested.)

8 MS. STEINER: Objection as to form

9 and foundation.

10 BY MR. ROTH:

11 Q. Yes, so let me try to rephrase the

12 question so it is a little less glib.

13 But, since the recall, have you

14 learned ways that you as a physician can, you

15 know, verify whether or not a compounding

16 pharmacy is utilizing good manufacturing

17 processes?

18 MS. STEINER: Objection as to form

19 and foundation.

20 THE WITNESS: Generally speaking,

21 right after the recall which happened on the

22 26th or the 27th of September, incidentally I

23 used to do anesthesia on Wednesday at Harford

24 County Ambulatory Surgical Center.

25 The room that I was doing anesthesia

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1 in, I think had the surgical tech who orders

2 medications there, had mentioned, I had not

3 seen the recall notice at this point, this

4 was a Wednesday during the day, had mentioned

5 that they were planning on switching, getting

6 preservative-free MPA from another pharmacy.

7 So, when the recall notice first

8 came, besides other things, but the decision

9 to get the steroid from another place at the

10 time of the recall, and not still getting any

11 indication from NECC based on my call to them

12 when I saw the recall notice, whether there

13 had been any problems.

14 I was still with the thought

15 preservative-free was the best steroid to use

16 for patients for their spinal injections. So

17 I had still intentions to continue using

18 preservative, obviously they were not

19 supplying it.

20 And since I had just the previous

21 day spoken with the person at Harford County

22 that they were switching, I said, oh, this is

23 a coincidence. Otherwise I would have no

24 idea, since the recall, since I have never

25 ordered from anywhere else, that it did make

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1 it easier for me to actually have another

2 resource already, that I could just call her

3 and get the information on who they were

4 going with.

5 I hadn't really paid that much

6 attention the day before when she said they

7 were switching, because I had no thoughts of

8 switching until that recall notice came.

9 So, I asked her to give me the name

10 of the contact person for the new pharmacy

11 they were going with.

12 And, I don't remember if I

13 personally called or if Andy called

14 requesting that an account be set up for us

15 to be able to order from them.

16 I saw the recall notice on a

17 Thursday; I still had procedures to do that

18 Friday. I could not use what I had on hand

19 from the 0629, since I had already decided

20 not to use that and had borrowed the 0521

21 from Harford County which was also on the

22 recall notice, so I couldn't use that.

23 The 0810 that had been shipped by

24 then was on the recall notice; I couldn't use

25 that.



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1 So, again, I don't remember if I  
2 called or I asked Andy to call, you know,  
3 Barbara had mentioned they were switching,  
4 had they switched already and do they have  
5 something else on hand.  
6 They happen to have JCB's  
7 preservative-free MPA.  
8 BY MR. ROTH:  
9 Q. Whose was it?  
10 A. Harford County, JCB Labs, they  
11 happened to have that already on hand, so we  
12 borrowed that to get through my procedures on the  
13 28th.  
14 There was the weekend, October 1st  
15 is when I got the call from the Department of  
16 Health.  
17 Still not understanding the extent  
18 of NECC's problem, I said okay, while we started  
19 to do what the Department of Health wanted us to  
20 do, still under the impression it was an isolated  
21 NECC problem not a, some sort of a bigger  
22 compounding pharmacy's kind of an issue. As we  
23 were doing what they needed us to do with these  
24 patients --  
25 Q. And that is the calling and

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1 notifying?  
2 A. Exactly. Calling, notifying, giving  
3 them information until they told us that we could  
4 start calling or sending letters.  
5 To come back to your question, did I  
6 know any different on what to ask? So I again  
7 reached back to Barb.  
8 At the time she had informed me that  
9 they had a pharmacy consultant that they could  
10 reach out to as needed.  
11 And I said, hey, as he suggested,  
12 there is something I should be asking this new  
13 place now that I'm getting this medication from.  
14 And I think she gave me a list,  
15 either of questions to ask or asking for their  
16 license.  
17 So, whatever I must have asked based  
18 on that pharmacist suggesting to Barb, Barb  
19 passing that information to me, I asked all of  
20 that of JCB. Kept it, I have a JCB folder, all  
21 of that stuff will be in there.  
22 However, what changed my mind in  
23 thinking there was anything I could do to confirm  
24 that what they were giving me was sterile and  
25 what I expected it to be, changed over the

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1 subsequent months as I saw either news or other  
2 recall reports from other compounding pharmacies  
3 having contamination in their products.  
4 So, within those first few months, I  
5 did use the JCB product that we initially  
6 ordered.  
7 But as I continued to see the news  
8 reports of the other, in other states compounding  
9 pharmacies having issues, at the time I had  
10 decided since there is no way for me to ensure or  
11 oversee or check what they were doing is right.  
12 And clearly the people who are supposed to be  
13 making sure what they were doing they are doing  
14 right, I have no control of either, that my then  
15 safest option at the time was to use steroid with  
16 preservative.  
17 And I switched to using preservative  
18 methylprednisolone.  
19 Q. Do you remember the name of the  
20 consultant that Barb suggested you speak with?  
21 MS. STEINER: Objection as to  
22 foundation.  
23 THE WITNESS: I'm sorry, she did not  
24 suggest I speak, that is a resource that they  
25 had that she had already spoken with.

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1 BY MR. ROTH:  
2 Q. Sorry, I understood.  
3 A. And he had suggested asking the  
4 pharmacy these questions. And I said, okay, I  
5 will do that. I do not know that person's name.  
6 Q. I missed a step there. I apologize.  
7 Barb gave you the questions that her  
8 resource gave to her.  
9 A. Correct.  
10 Q. Okay. And then you asked those of  
11 JCB.  
12 A. Correct. Whether there were  
13 questions to ask or asking them, you know, like  
14 the first time around like I said NECC to get  
15 stuff from them was a very, in my mind, just as  
16 simple as ordering any of the other products.  
17 I had used it before, this is where  
18 they were getting it from, this was the first  
19 time I was having to look elsewhere, and, try and  
20 figure something out. And, so she made those  
21 suggestions and I followed those, asking for  
22 their license, or whatever you asked for.  
23 Like I said, it would be in that  
24 folder.  
25 Q. Right. And that is the first time



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